



MEMO ENDORSED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

BC Media Funding Company II)	
Media Funding Company)	Civil Action No. 1:08-cv-6228-RPP
)	
Plaintiffs)	
)	
v.)	
)	
Frank Lazauskas, Michael L. Metter)	
Leonard Moscati and E. Michael Tisani)	
)	
Defendants)	

**MOTION FOR ORDER EXTENDING TIME FOR DEFENDANTS
TO FILE A RESPONSIVE PLEADING**

The Defendants, by and through their undersigned counsel, respectfully move this Court for an Order extending the time within which the Defendants may file a responsive pleading for the following reasons:

1. This Action is pending in this court by virtue of a Notice of Removal pursuant to 28 U.S.C. §1446, filed on July 9, 2008. The underlying action was commenced in the Supreme Court of the State of New York, County of New York (the "State Court Action") by Notice of Summary Judgment in Lieu of Complaint, pursuant to the provisions of CPLR 3213. The Plaintiffs did not file a complaint in the State Court action, as would be required under the Federal Rules of Civil Procedure. The Defendants have filed concurrently herewith a motion for order requiring Plaintiffs to re-plead.

2. The Defendants respectfully request that this Court extend the time within which the Defendants must file a responsive pleading to the date that is 20 days after the Plaintiffs file their complaint in this civil action, if ordered to do so; or, alternatively, if the Plaintiffs are not ordered to re-plead, then to the date that is 20 days after the entry of the denial of the motion for order requiring Plaintiffs to re-plead.

3. Pursuant to Local Civil Rule 7.1(a), the Defendants additionally request that this Court waive the requirement for the filing of a memorandum of law, on the grounds that this Motion is in the nature of an initial request for extension of time to file a responsive pleading to the complaint and therefore raises no disputed issues of law which require briefing.

THE DEFENDANTS

Dated: July 15, 2008

By /s/ Scott D. Rosen
Scott D. Rosen (SR-1545)
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See attached typed
Memo Endorsement

Defendants motion to require Plaintiffs to replead is denied. Defendants shall have until August 6, 2008 to respond to the Plaintiffs motion for summary judgment. See Sterling National Bank v Fidelity Mortgage Services 518 F.2d 870 (11th Cir. 1975) Sun Forest Corp v Shull et al 152 F.Supp.2d 367 (2001). So ordered. Robert A. Hush 7/17/08.

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of July, 2008 a copy of the foregoing Motion for Order Extending Time for Defendants to File a Responsive Pleading was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Scott D. Rosen
Scott D. Rosen

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Memo Endorsement reads:

Defendant's motion to require plaintiffs to replead is denied. Defendants shall have until August 6, 2008 to respond to Plaintiff's motion for summary judgment. See Sterling National Bank v. Fidelity Mortgage, 510 F² 870 (1975), Sun Forest Corp. V. Shvili, et. al. 152 F Supp² 367 (2001).

**So Ordered.
Robert P. Patterson, Jr.
U.S.D.J.
7/17/08**